

- II. Claims 30, 31, 35, and 36, drawn to a method for producing a supported particulate catalyst, classified in class 502, subclass various.
- III. Claims 37 and 38, drawn to a catalytic fuel cell, classified in class 429, subclass 40.

Applicant provisionally elects Group I, Claims 1-29 and 32-34. Applicant requests that the restriction requirement be reconsidered because the Examiner has not shown that a serious burden would be required to examine all the claims. M.P.E.P § 803 provides:

If the search and examination of an application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions. (Emphasis added.)

Thus, for a restriction to be proper, the Examiner must satisfy the following two criteria: (1) the existence of independent and distinct inventions (35 U.S.C. § 121); and (2) that the search and examination of the entire application cannot be made without serious burden. *See* M.P.E.P § 803.

The Examiner has not shown that the second requirement has been met. Specifically, the Examiner has not shown that it would be a serious burden to search and examine all of the groups together. Consequently, reconsideration and modification or withdrawal of the restriction is requested.

Applicant awaits an action on the merits.

ATTORNEY DOCKET NO. 03234.0024U1
APPLICATION NO. 10/801,348

Enclosed is a Request for a One Month Extension of Time and a Credit Card Payment Form PTO-2038 authorizing payment in the amount of \$110.00, for a one month extension of time. This amount is believed to be correct; however, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this correspondence and any documents referenced herein as being enclosed herein are being deposited with the United States Postal Service in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the date below.



Mitchell A. Katz

November 5, 2004

Date